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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,748	12/19/2001	Rajesh S. Agarwalla	AUS920010792US1	1887
65362 7590 08/22/2007 INTERNATIONAL BUSINESS MACHINES CORPORATION c/o HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			EXAMINER DALENCOURT, YVES	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/034,748

Applicant(s)

AGARWALLA ET AL.

Examiner

Yves Dalencourt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/27/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is responsive to amendment filed on 02/02/2007.

The status of the cross-reference to related applications on page 1 of the specification needs to be updated.

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 15 and 22 in view of **MPEP section 2106 IV.B.2. (b)** define non-statutory processes because they merely manipulate an abstract idea without a claimed limitation to a practical application. The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a

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concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. A program product not claimed **as being executed by a computer** is non-functional descriptive material per se and is not statutory process. Applicants are advised to amend the claims by having "**a computer program product having instructions stored in a computer readable storage medium for ...**" so that the claims can be directed to a practical application and producing a tangible result **being executed by a computer**. As such, claim 15 would be considered statutory under 35 U.S.C. 101.

Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory or non-patent eligible "signal" claims. Claim 22 is claiming a "data structure" which is non-functional descriptive material. Thus, claim 22 is non-statutory for at least the reasons above and do not fall into any statutory category of invention under 35 U.S.C. 101.

Claims 16 - 21 and 23 - 25 are necessarily rejected as being dependent upon the rejection of claims 15 and 22.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Daugherty et al (US 6,557,076; hereinafter Daugherty).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Daugherty teaches a method for processing objects within a data processing system in a network (fig. 4), the method comprising the steps of receiving a message at a computing device, wherein the message comprises a set of message headers and a message body, wherein the message body contains a top-level fragment (col. 1, lines 59 - 67); and retrieving a message header from the message, wherein the message header indicates that the message body includes a linking element to a next-level fragment (col. 2, lines 11- 15; col. 6, lines 39 – 52; col. 9, lines 1 - 10).

Regarding claim 2, Daugherty teaches the method of claim 1, which further comprising: retrieving the next-level fragment; and combining the top-level fragment and the next-level fragment into an assembled fragment (col. 2, lines 8 – 15; Daugherty discloses that *content may be constantly updated from different sources, by interface with the provider objects. High performance is obtained in part by caching commonly used page fragments, which may be assembled in different ways depending on the key*).

Regarding claim 3, Daugherty teaches the method of claim 2 further comprising: obtaining a source identifier for the next-level fragment from the linking element; sending a request message for the next-level fragment using the source identifier for the next-level fragment; and receiving a response message comprising the next-level fragment (col. 5, lines 49 through col. 6, lines 10).

Regarding claim 4, Daugherty teaches the method of claim 1, wherein the protocol header is generated by a server that originated the top-level fragment (col. 5, lines 14 - 40).

Regarding claim 5, Daugherty teaches the method of claim 1 wherein the linking element comprises a source identifier, wherein the source identifier is formatted as a URI (Uniform Resource Identifier) (col. 5, lines 14 – 20; Daugherty discloses that *the web page requested by the user browser 100 is identified by a Universal Resource Locator (URL) address. In one embodiment, the web page is made up of a number of HyperText Markup Language (HTML) clips, in a given arrangement. The first server*

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102 determines the clips and the arrangement for the web page based on a key identified in FIG. 2 as personalization 108).

Regarding claim 7, Daugherty teaches the method of claim 1 wherein the message is an HTTP (Hypertext Transport Protocol) Response message (col. 5, lines 23 – 27; Daugherty discloses that the local file may be what is known in the art as a cookie file, which is read by the browser 100 on the local PC (the requestor), and sent to the server 102 in the cookie portion of an HTTP header, as part of a web page GET request, as known within the art. Daugherty further discloses that the server 102 may also return the completed web page).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty et al (US 6,557,076; hereinafter Daugherty) in view of Blumer et al (US 5,890,171; hereinafter Blumer).

Regarding claim 6, Daugherty teaches substantially all the limitations in claim 1, but fails to specifically teach that the linking element is defined using SGML (Standard Generalized Markup Language).

However Blumer discloses using a SGML (Standard Generalized Markup Language) as a linking element (col. 2, lines 41 - 44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Daugherty by using a SGML (Standard Generalized Markup Language) as a linking element as evidenced by Blumer for the purpose of showing where to retrieve the other portions of a document.

Claims 8 – 25 incorporates all the limitations of claims 1 – 7 in apparatus and computer program product form. The rejections of claims 1 – 7 apply also to claims 8 – 25.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Copeland et al (US Patent Number 6,557,076) discloses a method and apparatus for aggressively rendering data in a data processing system.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272 4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 9, 2007


YVES DALENCOURT
PRIMARY EXAMINER
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